



State of Wisconsin  
Governor Scott Walker

**Department of Agriculture, Trade and Consumer Protection**  
Ben Brancel, Secretary

**DATE:** August 27, 2013

**TO:** Board of Agriculture, Trade and Consumer Protection

**FROM:** Ben Brancel, Secretary *Ben Brancel*  
Sandy Chalmers, Administrator *Sandy Chalmers*  
Trade and Consumer Protection Division

**SUBJECT:** Chs. ATCP 90, 91, 92, 113 and 136; Fair packaging and labeling; selling commodities by weight, measure or count; weights and measures; gasoline advertising; and mobile air conditioners, reclaiming or recycling refrigerant (Final Draft)

**PRESENTED BY:** Judy Cardin

**REQUESTED ACTION:**

At the September 10, 2013 Board meeting, the Department of Agriculture, Trade and Consumer Protection (DATCP) will ask the DATCP Board to authorize the final draft on a proposed rule (copy attached) for chs. 90, 91, 92, 113 and 136, related to fair packaging and labeling; selling commodities by weight, measure or count; weights and measures; gasoline advertising; and mobile air conditioners, reclaiming or recycling refrigerant,

**SUMMARY:**

*Rule Content*

**General**

This rule modifies existing rules with a number of technical updates and minor changes. It does not represent any significant shift in the overall goals or policies of the existing rules.

**Chapter ATCP 90 - Fair Packaging and Labeling**

Under current rules, the definition of "unreasonable shortage" as it relates to Fair Packaging and Labeling, refers to the maximum allowable variation specified for a commodity in the National Institute of Standards and Technology (NIST) Handbook 133, "Checking the Net Contents of Packaged Goods." However, the current rule does not specify which edition of NIST Handbook 133 it is referencing. This rule modifies the definition of "unreasonable shortage" to specifically reference NIST Handbook 133, "Checking the Net Contents of Packaged Goods," (2013 edition).

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## **Chapter ATCP 91 - Selling Commodities by Weight, Measure or Count**

The current rule lists a number of commodities and incorporates references to NIST Handbook 130, "Uniform Laws and Regulations in the Area of Legal Metrology and Engine Fuel Quality," (2011 edition). This rule updates these references to the 2013 Edition. It also corrects references to specific sections (in the case of liquid oxygen used for respiration and liquefied petroleum gases).

## **Chapter ATCP 92 - Weights and Measures**

The current rule regulates weighing and measuring devices, state and municipal inspection programs, and licensing requirements for service companies. The current rule incorporates references to NIST Handbook 44, "Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices," (2011 edition). This rule updates these references to the 2013 Edition.

The current rule contains several "notes" informing the reader how to obtain license applications and similar documents from DATCP. This rule updates these notes to conform to changes in DATCP web pages and other changes.

Chapter ATCP 92, Subchapter IV regulates vehicle scales and livestock scales. However, there are some significant differences between the two. Installing or relocating a vehicle scale requires a permit from DATCP. DATCP also collects installation reports for vehicle scales, and reviews request for variances on the construction standards contained in the rule. This rule clarifies that there is no need for operators to request variances for livestock scales (because there is no permit requirement and they are not required to submit their construction plans).

This rule also modifies the definition of "vehicle scale" to make it clear that ch. ATCP 92 does not apply to scales that are not in commercial service.

## **Chapter ATCP 113 - Gasoline Advertising**

The current rule affirms that it is an unfair trade practice for sellers of gasoline to mislead buyers regarding the octane rating of gasoline, claim that the gasoline is suitable for aviation if it is not, or claim the gasoline is of greater value because it contains high octane components without clearly stating the octane value of the total product. The current rule references octane standards contained in "ASTM Manual for Rating Motor Fuels by Motor and Research Methods", published 1956.

This rule replaces the references to ASTM standards with references to ch. SPS 348 – Petroleum and Other Liquid Fuel Products. Pursuant to the 2013-15 Budget Bill; DATCP now administers this chapter of the administrative code; as part of the petroleum inspection program that was transferred from the Department of Safety and Professional Services to DATCP.

## **Chapter ATCP 136 - Mobile Air Conditioners; Reclaiming or Recycling Refrigerant**

Pursuant to s. 100.45, Stats., DATCP regulates the use of refrigerants in mobile air conditioners. Under the current rule, among other things, no person may buy, sell or consign refrigerant in a container holding less than 15 pounds (this is sometimes informally referred to as the “small can ban”). However, 2011 Wisconsin Act 187 restricts DATCP’s authority to prohibit sales of non-ozone-depleting refrigerants. Therefore, under the proposed rule, only ozone depleting refrigerants are prohibited from being sold in containers less than 15 pounds.

The current rule regulates the types of equipment that can be used to reclaim or recycle refrigerants from mobile air conditioners. Recently, the Environmental Protection Agency (“EPA”) has approved a new type of refrigerant (“HFO-1234fy”). This rule updates the current rule to recognize the new product and associated specifications and equipment standards.

### ***Public Hearings***

DATCP held one public hearing on the proposed rule on August 7, 2013 in Madison. There were no attendees at the hearing.

DATCP accepted written comments until August 21, 2013. Two individuals commented in writing on the proposed rule. Neither of the commenters, however, expressed a position on the proposed rule. Rather, one pointed out some typographical errors in the proposed rule, and the other had an informal question about the applicability of ch. ATCP 113 (both the current version and with the proposed amendments).

### ***DATCP’s Rule Changes in Response to Public Hearings and Rules Clearinghouse Comments***

The Rules Clearinghouse made a number of comments on technical aspects of the rule. DATCP incorporated all of these suggestions and corrections into the final draft rule.

Other changes from the hearing draft include:

- The final draft corrects some minor typographical errors contained in the hearing draft. For example, Ch. ATCP 136, as amended, is supposed to refer to the technical standard for HFO-1234yf. In a couple places, the hearing draft erroneously referred to HFO-1234fy.
- The final draft revises Ch. ATCP 113 to link to fuel octane standards contained in Ch. SPS 348, Petroleum and Other Liquid Fuel Products, Wis. Adm. Code. The hearing draft had, instead, incorporated 2012 ASTM International specifications and test methods. As of July 1, 2013, DATCP is the agency responsible for enforcing SPS 348. Therefore, DATCP now has two mechanisms for enforcing fuel quality standards. The final rule ensures that both mechanisms rely on the same technical specifications and test methods.

***Summary of, and comparison with, existing or proposed federal statutes and regulations.***

This rule updates references to weights and measures technical standards published by the National Institute of Standards and Technology ("NIST"). By incorporating the latest NIST standards, this rule keeps Wisconsin standards consistent with applicable national standards.

The fuel octane standards incorporated by reference by this rule into ch. ATCP 113 are identical to standards used by the EPA to regulate fuel quality.

This rule update's Wisconsin's mobile air conditioner rules to conform to the most recent EPA standards.

***Comparison with rules in adjacent states***

Generally, this rule updates standards incorporated by reference contained in several chapters of the Wisconsin Administrative Code. Most states, including all of Wisconsin's neighbors, recognize the same accepted standards in their statutes and rules.

This rule brings Wisconsin's rules relating to mobile air conditioning refrigerants into conformity with neighboring states' rules.

***Summary of Factual Data and Analytical Methodologies***

This rule does not depend on any complex analysis of data. This rule makes minor or technical changes to current rules.

***Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis***

This rule simply updates references and makes other technical changes to existing rules and does not make significant changes to existing policies. Therefore, this rule is not anticipated to have an economic impact.

***Effect on Small Business***

This rule updates references to technical standards to the most recent editions of those standards without significant changes. This rule simply continues policies already in place in current rules or updates rules to conform to recent changes in the statutes. Except as noted below, this rule does not have an effect on small businesses.

Chapter ATCP 113 – Gasoline Advertising, updating references to most recent standards may increase the enforceability of the rule. Chapter ATCP 113 relies on nationally recognized standards for octane rating published by ASTM. However, the current rule relies on standards that are outdated and is, therefore, difficult to enforce. Updating the standards, as proposed in

this rule, will improve the enforceability. By making it easier to punish any business that might mislead consumers about the octane rating or value, this rule should benefit honest sellers of gasoline.

This rule will benefit businesses that service mobile air conditioners. Under this rule, these businesses can service units that require the new refrigerant HFO-1234yf. This product was only recently approved by EPA.

### *Environmental Impact*

This rule does not have an environmental impact.

### *Standards Incorporated by Reference*

This rule incorporates, by reference, the following standards:

- Air Conditioning, Heating and Refrigeration Institute (AHRI)
  - AHRI 740-1998 Refrigerant Recover / Recycling Equipment.
- ASTM International
  - ASTM D4814-12 Standard Specifications for Automotive Spark-Ignition Engine Fuel.
  - ASTM D2699-12 Standard Test Method for Research Octane Number of Spark Ignition Engine Fuel.
  - ASTM D2700-12 Standard Test Method for Motor Octane Engine Fuel.
- NIST (National Institute of Standards and Technology), 2013 editions:
  - Handbook 44, Specifications, Tolerances, and other Technical Requirements for Weights and Measures.
  - Handbook 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality.
  - Handbook 133, Checking the Net Contents of Packaged Goods.
- SAE International
  - SAE J2843-2013 (R-1234yf (HFO1234yf) Recovery/Recycling/Recharging Equipment for Flammable Refrigerants for Mobile Air-Conditioning Systems).
  - SAE J2851-2012 (Recovery Equipment for Contaminated Refrigerant from Mobile Automotive Air-Conditioning Systems).

DATCP will request consent from the Attorney General to incorporate these standards by reference. A copy of these documents will be kept on file with DATCP and the Legislative Reference Bureau. NIST publications are available online at <http://www.nist.gov/index.html>. SAE International publications are available online at <http://www.sae.org>. ASTM International publications are available online at <http://www.astm.org>. AHRI publications are available online at <http://www.ahrinet.org>.

*Next Steps*

If the Board approves this final draft rule, DATCP will submit the final draft rule to the Governor's Office of Regulatory Compliance. If the Governor's office approves the final draft rule, DATCP will then submit the rule to the legislature for legislative committee review. If the legislature has no objection to the rule, the DATCP Secretary will sign the final rulemaking order and transmit it for publication. The rule will take effect on the first day of the third month following publication.

**PROPOSED ORDER  
OF THE WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION  
ADOPTING RULES**

1 The Wisconsin department of agriculture, trade and consumer protection proposes the following  
2 *to repeal* ATCP 113.02, *to amend* ATCP 90.01 (26), 91.01 (4) and (Note), 91.03 (3) (k) and (L),  
3 the prefatory note to Ch. ATCP 92, 92.01 (15), 92.02 (1) and (Note), 92.06 (1) (a) and (b) and  
4 (2), 92.20 (2) (d) (Note), 92.21 (2) (b) (Note) and (4) (Note), 92.22 (1) (b) and (Note), 92.30 (1)  
5 (c) and (d) (Note), (3) (e) 2., and (6) (title) and (c) (Note), 92.31 (2) (d) (Note), 92.43 (2) (Note),  
6 92.50 (2) (b) (Note) and (3) (d), 113.01 (1) and (3), 136.10 (1), 136.12 (3) (e); *to repeal and*  
7 *recreate* ATCP 136.02 (4) (Note), 136.08 (7) (Note) and *to create* ATCP 136.01 (11m), 136.12  
8 (3) (f) and (g), and 136.14 (1) (c) ; *relating to* fair packaging and labeling; selling commodities  
9 by weight, measure or count; weights and measures; gasoline advertising; and mobile air  
10 conditioners, reclaiming or recycling refrigerant; various minor and technical rule changes; and  
11 affecting small business.

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**Analysis Prepared by the Department  
of Agriculture, Trade and Consumer Protection**

This rule makes minor and technical changes to a number of current rules administered by the department of agriculture, trade and consumer protection ("DATCP").

***Statutes Interpreted***

Statutes Interpreted: s. 97.03, Ch. 98, ss. 100.20 and 100.45, Stats.

### *Statutory Authority*

Statutory Authority: ss. 93.07(1), 97.09(1) and (4), 97.42 (4) (j), 98.03 (2), 98.07 (3) and (4), 98.16 (4), 98.18 (2), 98.224 (4), 98.245 (9), 100.20 (2), and 100.45 (5) (a) and (e), Stats.

### *Explanation of Statutory Authority*

DATCP has broad general authority, under s. 93.07(1), Stats., to interpret laws under its jurisdiction.

DATCP has authority under s. 97.09 (1), Stats., to define or adopt standards of identity, composition, quality and fill of food containers. DATCP has general authority, under s. 97.09 (4), Stats., to adopt rules specifying standards to protect the public from the sale of adulterated or misbranded foods. DATCP has authority under s. 97.42 (4) (j), Stats., to administer inspections of animals, poultry and carcasses.

DATCP has authority under s. 98.03 (2), Stats., to issue rules governing the construction, installation and use of commercial weights and measures and prescribing tolerances. DATCP has authority under s. 98.07 (3) and (4), Stats., to issue rules specifying tolerances for variations from quantities stated on packages. DATCP has authority under s. 98.16 (4), Stats., to regulate the construction, operation, testing, and maintenance of vehicle scales. DATCP has authority under s. 98.18 (2), Stats., to regulate the installation, servicing, testing and certification of weights and measures. DATCP has authority under s. 98.224 (4), Stats., to promulgate rules that establish standards for the construction, operation, and maintenance of vehicle tank meters, and authority under s. 98.245 (9), Stats., to establish standards for liquefied petroleum gas meters.

DATCP has authority under s. 100.20 (2) (a), Stats., to forbid unfair methods of competition and unfair trade practices.

DATCP has authority under s. 100.45 (5) (a), Stats., to promulgate rules establishing standards for recycled refrigerant based on recognized national industry standards, and qualifications for individuals and businesses that service mobile air conditioners. However, s. 100.45 (5e) (b), Stats., prohibits DATCP from promulgating rules that prohibit the sale of refrigerant that is a substitute for ozone-depleting refrigerant in a container holding less than 15 pounds.

### *Related Statutes and Rules*

This proposed rule updates a number of existing rule chapters and is related to several statutes and rules.

Chapter ATCP 90, Fair Packaging and Labeling, requires certain information be included on product labels. This rule is related to ch. 97 Food Regulation and ch. 98 Weights and Measures, Stats.



Chapter ATCP 91, Selling Commodities by Weight, Measure or Count, regulates how a seller communicates quantity of product to the buyer. This rule is related to ch. 98, Stats., Weights and Measures.

Chapter ATCP 92, Weights and Measures, regulates the accuracy of scales, tank meters, and other measuring devices. It contains license or certification programs for devices, technicians and service companies. This rule is related to Ch. 98, Stats., Weights and Measures.

Chapter ATCP 113, Gasoline Advertising, prohibits gasoline sellers from misrepresenting the octane rating of gasoline. This rule is promulgated under s. 100.20, Unfair Trade Practices, Stats. Gasoline octane is also regulated under Ch. 168, Stats., Oil Inspection, and ch. SPS 348, Petroleum and Other Liquid Fuel Products.

Chapter ATCP 136, Mobile Air Conditioners; Reclaiming or Recycling Refrigerant, regulates the repair or service of motor vehicle air conditioners and trailer refrigeration equipment. This rule relates to s. 100.45, Stats., Mobile Air Conditioners.

### *Plain Language Analysis*

#### **Rule Content**

##### **General**

This rule modifies existing rules with a number of technical updates and minor changes. It does not represent any significant shift in the overall goals or policies of the existing rules.

#### **Chapter ATCP 90 - Fair Packaging and Labeling**

Under current rules, the definition of “unreasonable shortage” as it relates to Fair Packaging and Labeling, refers to the maximum allowable variation specified for a commodity in the National Institute of Standards and Technology (NIST) Handbook 133, “Checking the Net Contents of Packaged Goods.” However, the current rule does not specify which edition of NIST Handbook 133 it is referencing. This rule modifies the definition of “unreasonable shortage” to specifically reference NIST Handbook 133, “Checking the Net Contents of Packaged Goods,” (2013 edition).

#### **Chapter ATCP 91 - Selling Commodities by Weight, Measure or Count**

The current rule lists a number of commodities and incorporates references to NIST Handbook 130, “Uniform Laws and Regulations in the Area of Legal Metrology and Engine Fuel Quality,” (2011 edition). This rule updates these references to the 2013 Edition. It also corrects references to specific sections (in the case of liquid oxygen used for respiration and liquefied petroleum gases).

## **Chapter ATPC 92 - Weights and Measures**

The current rule regulates weighing and measuring devices, state and municipal inspection programs, and licensing requirements for service companies. The current rule incorporates references to NIST Handbook 44, "Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices," (2011 edition). This rule updates these references to the 2013 Edition.

The current rule contains several "notes" informing the reader how to obtain license applications and similar documents from DATCP. This rule updates these notes to conform to changes in DATCP web pages and other changes.

Chapter ATPC 92, Subchapter IV regulates vehicle scales and livestock scales. However, there are some significant differences between the two. Installing or relocating a vehicle scale requires a permit from DATCP. DATCP also collects installation reports for vehicle scales, and reviews request for variances on the construction standards contained in the rule. This rule clarifies that there is no need for operators to request variances for livestock scales (because there is no permit requirement and they are not required to submit their construction plans).

This rule also modifies the definition of "vehicle scale" to make it clear that ch. ATPC 92 does not apply to scales that are not in commercial service.

## **Chapter ATPC 113 - Gasoline Advertising**

The current rule affirms that it is an unfair trade practice for sellers of gasoline to mislead buyers regarding the octane rating of gasoline, claim that the gasoline is suitable for aviation if it is not, or claim the gasoline is of greater value because it contains high octane components without clearly stating the octane value of the total product. The current rule references octane standards contained in "ASTM Manual for Rating Motor Fuels by Motor and Research Methods", published 1956.

This rule replaces the references to ASTM standards with references to ch. SPS 348 – Petroleum and Other Liquid Fuel Products. Pursuant to the 2013-15 Budget Bill; DATCP now administers this chapter of the administrative code; as part of the petroleum inspection program that was transferred from the Department of Safety and Professional Services to DATCP.

## **Chapter ATPC 136 - Mobile Air Conditioners; Reclaiming or Recycling Refrigerant**

Pursuant to s. 100.45, Stats., DATCP regulates the use of refrigerants in mobile air conditioners. Under the current rule, among other things, no person may buy, sell or consign refrigerant in a container holding less than 15 pounds (this is sometimes informally referred to as the "small can ban"). However, 2011 Wisconsin Act 187 restricts DATCP's authority to prohibit sales of non-ozone-depleting refrigerants. Therefore, under the proposed rule, only ozone depleting refrigerants are prohibited from being sold in containers less than 15 pounds.

The current rule regulates the types of equipment that can be used to reclaim or recycle

refrigerants from mobile air conditioners. Recently, the Environmental Protection Agency (“EPA”) has approved a new type of refrigerant (“HFO-1234fy”). This rule updates the current rule to recognize the new product and associated specifications and equipment standards.

*Summary of, and comparison with, existing or proposed federal statutes and regulations.*

This rule updates references to weights and measures technical standards published by the National Institute of Standards and Technology (“NIST”). By incorporating the latest NIST standards, this rule keeps Wisconsin standards consistent with applicable national standards.

The fuel octane standards incorporated by reference by this rule into ch. ATP 113 are identical to standards used by the EPA to regulate fuel quality.

This rule update’s Wisconsin’s mobile air conditioner rules to conform to the most recent EPA standards.

*Comparison with rules in adjacent states*

Generally, this rule updates standards incorporated by reference contained in several chapters of the Wisconsin Administrative Code. Most states, including all of Wisconsin’s neighbors, recognize the same accepted standards in their statutes and rules.

This rule brings Wisconsin’s rules relating to mobile air conditioning refrigerants into conformity with neighboring states’ rules.

*Summary of Factual Data and Analytical Methodologies*

This rule does not depend on any complex analysis of data. This rule makes minor or technical changes to current rules.

*Analysis and Supporting Documents Used to Determine Effect on Small Business or in Preparation of an Economic Impact Analysis*

This rule simply updates references and makes other technical changes to existing rules and does not make significant changes to existing policies. Therefore, this rule is not anticipated to have an economic impact.

*Effect on Small Business*

This rule updates references to technical standards to the most recent editions of those standards without significant changes. This rule simply continues policies already in place in current rules or updates rules to conform to recent changes in the statutes. Except as noted below, this rule does not have an effect on small businesses.

Chapter ATP 113 – Gasoline Advertising, updating references to most recent standards may increase the enforceability of the rule. Chapter ATP 113 relies on nationally recognized

standards for octane rating published by ASTM. However, the current rule relies on standards that are outdated and is, therefore, difficult to enforce. Updating the standards, as proposed in this rule, will improve the enforceability. By making it easier to punish any business that might mislead consumers about the octane rating or value, this rule should benefit honest sellers of gasoline.

This rule will benefit businesses that service mobile air conditioners. Under this rule, these businesses can service units that require the new refrigerant HFO-1234yf. This product was only recently approved by EPA.

### *Environmental Impact*

This rule does not have an environmental impact.

### *Standards Incorporated by Reference*

This rule incorporates, by reference, the following standards:

- Air Conditioning, Heating and Refrigeration Institute (AHRI)
  - AHRI 740-1998 Refrigerant Recover / Recycling Equipment.
- ASTM International
  - ASTM D4814-12 Standard Specifications for Automotive Spark-Ignition Engine Fuel.
  - ASTM D2699-12 Standard Test Method for Research Octane Number of Spark Ignition Engine Fuel.
  - ASTM D2700-12 Standard Test Method for Motor Octane Engine Fuel.
- NIST (National Institute of Standards and Technology), 2013 editions:
  - Handbook 44, Specifications, Tolerances, and other Technical Requirements for Weights and Measures.
  - Handbook 130, Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality.
  - Handbook 133, Checking the Net Contents of Packaged Goods.
- SAE International
  - SAE J2843-2013 (R-1234yf (HFO1234yf)) Recovery/Recycling/Recharging Equipment for Flammable Refrigerants for Mobile Air-Conditioning Systems).
  - SAE J2851-2012 (Recovery Equipment for Contaminated Refrigerant from Mobile Automotive Air-Conditioning Systems).

DATCP will request consent from the Attorney General to incorporate these standards by reference. A copy of these documents will be kept on file with DATCP and the Legislative Reference Bureau. NIST publications are also available online at <http://www.nist.gov/index.html>. SAE International publications are also available online at <http://www.sae.org>. ASTM International publications are available online at <http://www.astm.org>. AHRI publications are available online at <http://www.ahrinet.org>.

### *DATCP Contact*

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E-Mail: [kevin.leroy@wisconsin.gov](mailto:kevin.leroy@wisconsin.gov)

### *Place Where Comments are to be Submitted and Deadline for Submission*

Questions and comments related to this rule may be directed to:

Kevin LeRoy  
Department of Agriculture, Trade and Consumer Protection  
P.O. Box 8911  
Madison, WI 53708-8911  
Telephone (608) 224-4928  
E-Mail: [kevin.leroy@wisconsin.gov](mailto:kevin.leroy@wisconsin.gov)

Rule comments will be accepted up to two weeks after the last public hearing is held on this rule. DATCP held one hearing on this rule, on August 7, 2013.

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1           SECTION 1. ATCP 90.01 (26) is amended to read:

2           ATCP 90.01 (26) "Unreasonable shortage" means a shortage that exceeds the maximum  
3 allowable variation specified for a commodity in the national institute of standards and  
4 technology handbook 133, "Checking the Net Contents of Packaged Goods," 2013 edition.

5           SECTION 2. ATCP 91.01 (4) and (Note) are amended to read:

6           ATCP 91.01 (4) "NIST Handbook 130" means *NIST Handbook 130* (~~2011~~ 2013 edition)  
7 published by the national institute of standards and technology, United States department of  
8 commerce.

**Note:** Copies of NIST Handbook 130 (2009 2013 edition) are on file with the department and the legislative reference bureau. Copies may be obtained from the U.S. Government Printing Office, Stop SSOP, Washington, D.C. 20102-0001, website [www.nist.gov](http://www.nist.gov).

**SECTION 3.** ATPC 91.03 (3) (k) and (L) are amended to read:

ATPC 91.03 (3) (k) *Liquid oxygen used for respiration*. Commodities covered by *NIST Handbook 130*, ch. IV.B, section 2.22, shall be sold in compliance with that section.

(L) ~~LP-gas~~ *Liquefied petroleum (LP) gases*. Commodities covered by NIST Handbook 130, ch. ~~IV.B, section 2.21~~ IV.G, section 2.8, shall be sold in compliance with that section.

**SECTION 4.** Chapter ATPC 92 Prefatory Note relating to statutory authority is amended to read:

**Note:** This chapter is adopted under authority of ss. 93.07 (1), 93.15 (1), 98.03 (2), ~~98.16 (3), 98.16 (4)~~, 98.18 (1h) and (2), and 100.20 (2), Stats. Violations of this chapter are subject to the penalties and remedies provided under ss. 98.16, 100.20 (5) and (6), and 100.26 (3) and (6), Stats.

**SECTION 5.** ATPC 92.01 (15) is amended to read:

ATPC 92.01 (15) "Vehicle scale" means a commercial scale designed or used to weigh loaded or unloaded highway, farm, or industrial vehicles, and includes above-ground scales, dump scales, and portable scales. "Vehicle scale" does not include a railway scale used exclusively for the weighing of commodities on railroad track vehicles.

**SECTION 6.** ATPC 92.02 (1) and (Note) are amended to read:

ATPC 92.02 (1) Except as provided in this chapter, weighing and measuring devices shall comply with applicable specifications, tolerances and other technical requirements set forth in the national institute of standards and technology handbook 44 (specifications, tolerances and other technical requirements for weighing and measuring devices), ~~2011~~ 2013 edition.

**NOTE:** See s. 98.03 (2), Stats. The ~~current~~ 2013 edition of the National Institute of Standards and Technology Handbook 44 (Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices) is on file with the

department and the legislative reference bureau. Copies may be purchased from the U.S. Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. Excerpts can be viewed at <http://www.nist.gov/index.html>.

**SECTION 7.** ATPC 92.06 (1) (a) and (b), and (2) are amended to read:

ATPC 92.06 (1) (a) The national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), ~~2011~~ 2013 edition.

(b) The national institute of standards and technology handbook 133 (checking the net contents of packaged goods), ~~2011~~ 2013 edition.

(2) PRICE VERIFICATION SYSTEMS. Inspections of price verification systems shall comply with section 7 "test procedures" from the chapter titled "examination procedure for price verification," national institute of standards and technology handbook 130 (uniform laws and regulation in the areas of legal metrology and engine fuel quality), ~~2011~~ 2013 edition.

**SECTION 8.** ATPC 92.20 (2) (d) (Note) is amended to read:

ATPC 92.20 (2) (d) **Note:** You may obtain application forms at [http://www.datcp.state.wi.us/ep/consumerinfo/ep/weights\\_measures/weights\\_measures.jsp](http://www.datcp.state.wi.us/ep/consumerinfo/ep/weights_measures/weights_measures.jsp) [http://datcp.wi.gov/consumer/weights\\_and\\_Measures/index.aspx](http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx) or by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection  
Division of Trade and Consumer Protection  
Weights & Measures Program  
P.O. Box 8911  
Madison, WI 53708-8911

**SECTION 9.** ATPC 92.21 (2) (b) (Note) is amended to read:

ATPC 92.21 (2) (b) **Note:** You may obtain application forms at [http://www.datcp.state.wi.us/ep/consumerinfo/ep/weights\\_measures/weights\\_measures.jsp](http://www.datcp.state.wi.us/ep/consumerinfo/ep/weights_measures/weights_measures.jsp) [http://datcp.wi.gov/consumer/weights\\_and\\_Measures/index.aspx](http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx) or by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection  
Division of Trade and Consumer Protection

Weights & Measures Program  
P.O. Box 8911  
Madison, WI 53708-8911

**SECTION 10.** ATCP 92.21 (4) (Note) is amended to read:

ATCP 92.21 (4) **Note:** Currently, the Central Weights and Measures Association provides examinations in the following device categories: HB44 general code, retail computing scales, medium capacity scales, livestock scales, vehicle scales, railroad track scales, belt conveyor scales, retail motor fuel dispensers, vehicle tank meters, LPG meters, loading rack meters, and agricultural chemical and mass flow meters.

**SECTION 11.** ATCP 92.22 (1) (b) and (Note) are amended to read:

ATCP 92.22 (1) (b) Comply with applicable requirements contained in the national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices), ~~2011~~ 2013 edition.

**Note:** The national institute of standards and technology handbook 44 (specifications, tolerances, and other technical requirements for weighing and measuring devices) ~~2011~~ 2013 edition, is on file with the department and the legislative reference bureau. You may purchase copies of this handbook from the U.S. Government Printing Office, Superintendent of Document Sales, P.O. Box 371954, Pittsburgh, PA 15250-7954.

**SECTION 12.** ATCP 92.30 (1) (c) and (d) (Note), (3) (e) 2., and (6) (title) and (c) (Note) are amended to read:

ATCP 92.30 (1) (c) An application under par. (b) shall document that the vehicle scale ~~or~~ ~~livestock scale~~ complies with the construction standards in sub. (3).

(d) **Note:** A permit application form under sub. (1) (b) may be obtained at ~~[http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights\\_measures/weights\\_measures.jsp](http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_measures.jsp)~~ [http://datcp.wi.gov/consumer/weights\\_and\\_Measures/index.aspx](http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx) or by writing to:

Wisconsin Department of Agriculture, Trade and Consumer Protection  
Division of Trade and Consumer Protection  
Weights and Measures Program  
P.O. Box 8911  
Madison, WI 53708-8911



(3) (e) 2. In every above-ground vehicle scale, there shall be a clearance of not less than 6 inches (15 cm) between the top surface of the base slab and the bottom of the load receiving element. This subdivision does not apply to above-ground scales constructed prior to January 1, 1992.

(6) ~~VEHICLE AND LIVESTOCK SCALES; CONSTRUCTION VARIANCES.~~

(c) **Note:** A variance application form under sub. (6) (b) may be obtained at [http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights\\_measures/weights\\_mesures.jsp](http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_mesures.jsp) ~~http://datcp.wi.gov/consumer/weights\_and\_Measures/index.aspx~~ or by writing to:

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Division of Trade and Consumer Protection  
Weights and Measures Program  
P.O. Box 8911  
Madison, WI 53708-8911

**SECTION 13.** ATCP 92.31 (2) (d) (Note) is amended to read:

ATCP 92.31 (2) (d) **Note:** A license application form under sub. (2) (d) may be obtained at [http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights\\_measures/weights\\_mesures.jsp](http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_mesures.jsp) ~~http://datcp.wi.gov/consumer/weights\_and\_Measures/index.aspx~~ or by writing to:

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P.O. Box 8911  
Madison, WI 53708-8911

**SECTION 14.** ATCP 92.43 (2) (Note) is amended to read:

ATCP 92.43 (2) **Note:** An application form under sub. (2) may be obtained at [http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights\\_measures/weights\\_mesures.jsp](http://www.datcp.state.wi.us/cp/consumerinfo/cp/weights_measures/weights_mesures.jsp) ~~http://datcp.wi.gov/consumer/weights\_and\_Measures/index.aspx~~ or by writing to:

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P.O. Box 8911  
Madison, WI 53708-8911

1       **SECTION 15.** ATCP 92.50 (2) (b) (Note) and (3) (d) are amended to read:

2       ATCP 92.50 (2) (b) **Note:** An application form under sub. (2) may be obtained at  
3       [http://www.datcp.state.wi.us/ep/consumerinfo/ep/weights\\_measures/weights\\_mes](http://www.datcp.state.wi.us/ep/consumerinfo/ep/weights_measures/weights_measures.jsp)  
4       [ures.jsp](http://www.datcp.state.wi.us/ep/consumerinfo/ep/weights_measures/weights_measures.jsp) [http://datcp.wi.gov/consumer/weights\\_and\\_Measures/index.aspx](http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx) or by  
5       writing to:

6  
7       Wisconsin Department of Agriculture, Trade and Consumer Protection  
8       Division of Trade and Consumer Protection  
9       Weights and Measures Program  
10      P.O. Box 8911  
11      Madison, WI 53708-8911  
12

13      (3) (d) A surcharge of \$200 if the department determines that, within one year prior to  
14      submitting the application, the applicant failed to comply with the reporting requirement under  
15      sub. (3) s. ATCP 92.52. A surcharge payment under this paragraph does not relieve the applicant  
16      of any other civil or criminal liability for violating s. ATCP 92.52, but is not evidence of a  
17      violation.

18      **SECTION 16.** ATCP 113.01 (1) and (3) are amended to read:

19      (1) To state or otherwise represent that the gasoline has a specified octane value or rating  
20      when such value or rating has been determined by a test method other than one which is  
21      ~~recognized by the American Society for Testing Materials International as standard for the~~  
22      ~~industry authorized under ch. SPS 348.~~

23      (3) To use any statement, design or device which may induce prospective purchasers to  
24      believe that such gasoline is of greater value for motor car use because it contains high octane  
25      value components without clearly stating the octane value or rating for the total product  
26      advertised, as determined by a method which is recognized by the American Society for Testing  
27      Materials International as standard for the industry authorized under ch. SPS 348.

28      **SECTION 17** ATCP 113.02 is repealed:

29      **SECTION 18.** ATCP 136.01 (11m) is created to read:

1           ATCP 136.01 (11m) "Ozone-depleting refrigerant" means a substance used in  
2   refrigeration that is or contains a class I substance, as defined in 42 USC 7671 (3) or a class II  
3   substance, as defined in 42 USC 7671 (4).

4           **SECTION 19.** ATCP 136.02 (4) (Note) is repealed and recreated to read:

5           ATCP 136.02 (4) **Note:** An application form under sub. (4) may be obtained at  
6           [http://datcp.wi.gov/consumer/weights\\_and\\_Measures/index.aspx](http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx) or by writing to:

7  
8           Wisconsin Department of Agriculture, Trade and Consumer Protection  
9           Division of Trade and Consumer Protection  
10          Weights and Measures Program  
11          P.O. Box 8911  
12          Madison, WI 53708-8911

13  
14          **SECTION 20.** ATCP 136.08 (7) (Note) is repealed and recreated to read:

15          ATCP 136.08 (7) **Note:** You may obtain a list of approved training programs at  
16          [http://datcp.wi.gov/consumer/weights\\_and\\_Measures/index.aspx](http://datcp.wi.gov/consumer/weights_and_Measures/index.aspx) or by writing to:

17  
18          Wisconsin Department of Agriculture, Trade and Consumer Protection  
19          Division of Trade and Consumer Protection  
20          Weights and Measures Program  
21          P.O. Box 8911  
22          Madison, WI 53708-8911

23  
24          **SECTION 21.** ATCP 136.10 (1) is amended to read:

25          ATCP 136.10 (1) CONTAINER SIZE; GENERAL. No person may buy, sell or consign  
26   refrigerant in a container holding less than 15 pounds of ozone-depleting refrigerant.

27          **SECTION 22.** ATCP 136.12 (3) (e) is amended to read:

28          ATCP 136.12 (3) (e) Equipment used to recover refrigerant other than R-12 or R-134a  
29   or HFO-1234yf shall meet or exceed the standards specified by the air conditioning heating and  
30   refrigeration institute in "~~Performance of Refrigerant Recover, Reeyeling and/or Reelaim~~  
31   Equipment, ARI Standard 740-1993" AHRI 740-1998: Refrigerant Recover/Recycling  
32   Equipment.

1       **SECTION 23.** ATCP 136.12 (3) (f) and (g) are created to read:

2       ATCP 136.12 (3) (f) Equipment used to recycle HFO-1234yf refrigerant shall meet or  
3       exceed the standards specified by the society of automotive engineers in “R-1234fy (HFO-  
4       1234yf) Recovery/Recycling/Recharging Equipment for Flammable Refrigerants for Mobile Air-  
5       Conditioning Systems,” SAE J2843-2013.

6       (g) Equipment used to recover but not recycle HFO-1234yf refrigerant shall meet or  
7       exceed the standards specified by the society of automotive engineers in “Recovery Equipment  
8       for Contaminated Refrigerant from Mobile Automotive Air-Conditioning Systems,” SAE  
9       J2851-2012.

10       **SECTION 24.** ATCP 136.14 (1) (c) is created to read:

11       ATCP 136.14 (c) HFO-1234yf refrigerant shall meet or exceed the standards specified by  
12       the society of automotive engineers in “R1234fy (HFO-1234yf) New Refrigerant Purity and  
13       Container Requirements for Use in Mobile Air-Conditioning Systems,” SAE J2844-2013.

14       **SECTION 25. EFFECTIVE DATE:** This rule takes effect on the first day of the third month  
15       following publication in the Wisconsin administrative register, as provided in  
16       s. 227.22(2)(intro.), Stats.

17  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

WISCONSIN DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By: \_\_\_\_\_  
Ben Brancel  
Secretary

**Wisconsin Department of Agriculture, Trade and Consumer Protection**

**Initial Regulatory Flexibility Analysis**

***Rule Subject:*** Fair packaging and labeling; selling commodities by weight, measure or count; weights and measures; gasoline advertising; and mobile air conditioners, reclaiming or recycling refrigerant

***Adm. Code Reference:*** ATCP 90, 91, 92, 113, and 136

***Rules Clearinghouse #:*** 13-043

***DATCP Docket #:*** 12-R-11

***Rule Summary***

This rule modifies existing rules with a number of technical updates and minor changes. It does not represent any significant shift in the overall goals or policies of the existing rules.

**Chapter ATCP 90 - Fair Packaging and Labeling**

Under current rules, the definition of “unreasonable shortage” as it relates to Fair Packaging and Labeling refers to the maximum allowable variation specified for a commodity in the National Institute of Standards and Technology (NIST) Handbook 133, “Checking the Net Contents of Packaged Goods.” However, the current rule does not specify which edition of NIST Handbook 133 it is referencing. This rule modifies the definition of “unreasonable shortage” to specifically reference NIST Handbook 133, “Checking the Net Contents of Packaged Goods,” (2013 edition).

**Chapter ATCP 91 - Selling Commodities by Weight, Measure or Count**

The current rule lists a number of commodities and incorporates references to NIST Handbook 130, “Uniform Laws and Regulations in the Area of Legal Metrology and Engine Fuel Quality,” (2011 edition). This rule updates these references to the 2013 Edition. It also corrects references to specific sections (in the case of liquid oxygen used for respiration and liquefied petroleum gases).

**Chapter ATCP 92 - Weights and Measures**

The current rule regulates weighing and measuring devices, state and municipal inspection programs, and licensing requirements for service companies. The current rule incorporates references to NIST Handbook 44, “Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices,” (2011 edition). This rule updates these references to the

2013 Edition.

The current rule contains several “notes” informing the reader how to obtain license applications and similar documents from DATCP. This rule updates these notes to conform to changes in DATCP web pages and other changes.

Chapter ATCP 92, Subchapter IV regulates vehicle scales and livestock scales. However, there are some significant differences between the two. Installing or relocating a vehicle scale requires a permit from DATCP. DATCP also collects installation reports for vehicle scales, and reviews request for variances on the construction standards contained in the rule. This rule clarifies that there is no need for operators to request variances for livestock scales (because there is no permit requirement and they are not required to submit their construction plans).

This rule also modifies the definition of “vehicle scale” to make it clear that ch. ATCP 92 does not apply to scales that are not in commercial service.

### **Chapter ATCP 113 - Gasoline Advertising**

The current rule affirms that it is an unfair trade practice for sellers of gasoline to mislead buyers regarding the octane rating of gasoline, claim that the gasoline is suitable for aviation if it is not, or claim the gasoline is of greater value because it contains high octane components without clearly stating the octane value of the total product. The current rule references octane standards contained in “ASTM Manual for Rating Motor Fuels by Motor and Research Methods,” published 1956.

This rule replaces the references to ASTM standards with references to ch. SPS 348 – Petroleum and Other Liquid Fuel Products. Pursuant to the 2013-15 Budget Bill, DATCP now administers this chapter of the administrative code; as part of the petroleum inspection program that was transferred from the Department of Safety and Professional Services to DATCP.

### **Chapter ATCP 136 - Mobile Air Conditioners; Reclaiming or Recycling Refrigerant**

Pursuant to s. 100.45, Stats., DATCP regulates the use of refrigerants in mobile air conditioners. Under the current rule, among other things, no person may buy, sell or consign refrigerant in a container holding less than 15 pounds (this is sometimes informally referred to as the “small can ban”). However, 2011 Wisconsin Act 187 restricts DATCP’s authority to prohibit sales of non-ozone-depleting refrigerants. Therefore, under the proposed rule, only ozone depleting refrigerants are prohibited from being sold in containers less than 15 pounds.

The current rule regulates the types of equipment that can be used to reclaim or recycle refrigerants from mobile air conditioners. Recently, the Environmental Protection Agency (“EPA”) has approved a new type of refrigerant (“HFO-1234fy”). This rule updates the current rule to recognize the new product and associated specifications and equipment standards.

### ***Small Business Affected***

DATCP anticipates that this rule will have only a minimal effect on small businesses. These effects are likely to be minor and beneficial rather than significant and adverse. This proposed rule maintains regulatory consistency between Wisconsin and neighboring states that use the same nationally accepted technical standards and also regulatory consistency between the state statutes and administrative code. The rule might potentially affect the following types of businesses in the following ways:

#### **Businesses that sell packaged consumer products or commodities.**

Current rules regulate product labeling (ATCP 90) and weighing & measuring commodities for sale (ATCP 91). These current rules rely on universal technical standards established by NIST (National Institute of Standards and Technology). This proposed rule updates the references to the most recent versions of these technical standards. However, these updated references do not represent any significant change for the regulated businesses.

#### **Businesses that service weights & measures equipment (such as flow meters or scales)**

Currently, ATCP 92 regulates weights and measures devices and service companies. ATCP 92 references universal technical standards established by NIST (National Institute of Standards and Technology). This proposed rule updates the references to the most recent versions of these technical standards. However, these updated references do not represent any significant change for the regulated businesses.

#### **Businesses that sell gasoline**

Currently, ATCP 113 – Gasoline Advertising, relies on nationally recognized standards for octane rating published by ASTM. However, the current rule relies on standards that are outdated and are, therefore, difficult to enforce. Updating the standards, as proposed in this rule, will improve the enforceability. By making it easier to punish any business that might mislead consumers about the octane rating or value, this rule should benefit honest sellers of gasoline.

#### **Businesses that service mobile air conditioners**

Currently, ATCP 136 regulates businesses that service mobile air conditioners. This proposed rule updates ATCP 136 to conform to recent changes in state statute and allow these businesses to service units that require the new refrigerant HFO-1234yf. This product was only recently approved by EPA.

### ***Reporting, Bookkeeping and other Procedures***

The proposed rule does not make any changes to existing reporting, bookkeeping or other procedures.

### *Professional Skills Required*

The proposed rule does not make any changes to existing professional skills required.

### *Accommodation for Small Business*

This proposed rule does not represent any change from existing policies and requirements and, therefore, does not contain any accommodations for small businesses.

### *Conclusion*

DATCP anticipates that this rule will have only a minimal effect on small businesses. This rule will not have a significant adverse effect on "small business," and is not subject to the delayed "small business" effective date provided in s. 227.22(2)(e), Stats.

Dated this 26 day of August, 2013.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By 

Sandra S. Chalmers, Administrator  
Division of Trade and Consumer Protection



# ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

## Type of Estimate and Analysis

☒ Original    ☐ Updated    ☐ Corrected

## Administrative Rule Chapter, Title and Number

Ch. ATCP 90, Fair Packaging and Labeling  
Ch. ATCP 91, Selling Commodities by Weight, Measure or Count  
Ch. ATCP 92, Weights and Measures  
Ch. ATCP 113, Gasoline Advertising  
Ch. ATCP 136, Mobil Air Conditioners; Reclaiming or Recycling Refrigerant

## Subject

Various minor and technical updates to existing rules

## Fund Sources Affected

☐ GPR    ☐ FED    ☐ PRO    ☐ PRS    ☐ SEG SEG-S

## Chapter 20 , Stats. Appropriations Affected

## Fiscal Effect of Implementing the Rule

☒ No Fiscal Effect

☐ Indeterminate

☐ Increase Existing Revenues

☐ Decrease Existing Revenues

☐ Increase Costs

☐ Could Absorb Within Agency's Budget

☐ Decrease Costs

## The Rule Will Impact the Following (Check All That Apply)

☐ State's Economy

☐ Local Government Units

☐ Specific Businesses/Sectors

☐ Public Utility Rate Payers

## Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes    ☒ No

## Policy Problem Addressed by the Rule

This rule simply updates references and makes other technical changes to existing rules and does not make significant changes to existing policies.

This rule updates existing rules in several ways:

- ATCP 90 – Fair Packaging and Labeling
  - Updates the existing rule's references to NIST Handbook 133 – Checking the Net Contents of Packaged Goods to the most recent edition of the standards.
- ATCP 91 – Selling Commodities by Weight, Measure or Count
  - Updates the existing rule's references to NIST Handbook 130 – Uniform Laws and Regulations in the Area of Legal Metrology and Engine Fuel Quality to the most recent edition of the standards.
  - Corrects certain references to specific sections of Handbook 130.
- ATCP 92 – Weights and Measures
  - Updates the existing rule's references to NIST Handbook 44 – Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices to the most recent edition of the standards.
  - Updates several "notes" in current rule regarding instructions on how to contact DATCP for additional information.
  - Clarifies existing regulations regarding vehicle scales and livestock scales
  - Clarifies that ch. ATCP 92 does not apply to vehicle scales that are not in commercial service.

- ATCP 113 – Gasoline Advertising
  - Updates the existing rule’s reference to ASTM standards for octane rating test methods.
- ATCP 136 – Mobile Air Conditioners; Reclaiming or Recycling Refrigerant
  - Revises the current rule’s prohibition on buying and selling containers of any refrigerant in containers holding less than 15 pounds in order to conform to 2011 Wisconsin Act 187. Under this rule (and Act 187), only ozone depleting refrigerants are prohibited from being sold in containers less than 15 pounds.
  - Updates rule to incorporate a new type of refrigerant (HFO-1234fy) that is now recognized by EPA.

**Summary of Rule’s Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State’s Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)**

This rule simply updates references and makes other technical changes to existing rules and does not make significant changes to existing policies. Therefore, this rule is not expected to have a material economic or fiscal impact on specific businesses, business sectors, utility rate payers, local governments, or the state’s economy as a whole.

**Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule**

***Benefits***

This rule keeps several chapters of the Wisconsin administrative code up-to-date with the latest editions of nationally recognized technical standards for package labeling, selling bulk commodities, technical specifications for scales and other measuring devices, and gasoline octane ratings.

This rule also brings Ch. ATCP 136 into conformity with the statutes. Specifically, 2011 Wisconsin Act 187 invalidated the existing prohibition against buying or selling any mobile air conditioner refrigerant in containers of less than 15 pounds. This rule conforms to Act 187 by prohibiting the buying or selling of only ozone-depleting refrigerant.

***Alternatives***

This rule helps maintain regulatory consistency between Wisconsin, its neighboring states, and other jurisdictions that rely on universal technical standards. If DATCP does not adopt this rule, some of this consistency would be lost.

**Long Range Implications of Implementing the Rule**

This rule makes minor technical updates to existing rules and does not represent any significant change in long range implications.

**Compare With Approaches Being Used by Federal Government**

This rule updates references to weights and measures technical standards published by the National Institute of Standards and Technology (“NIST”). By incorporating the latest NIST standards, this rule keeps Wisconsin standards consistent with applicable national standards.

The fuel octane standards incorporated by reference by this rule into ch. ATCP 113 are identical to standards used by the EPA to regulate fuel quality.

This rule update’s Wisconsin’s mobile air conditioner rules to conform to the most recent EPA

standards.

**Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)**

Generally, this rule updates standards incorporated by reference contained in several chapters of the Wisconsin Administrative Code. Most states, including all of Wisconsin's neighbors, recognize the same accepted standards in their statutes and rules.

This rule brings Wisconsin's rules relating to mobile air conditioning refrigerants into conformity with neighboring states' rules.